

SECOND AMENDMENT TO THE
JOINT POWERS AGREEMENT BETWEEN
THE CITY OF CRESCENT CITY AND COUNTY OF DEL NORTE
CREATING THE DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY

This amendment is hereby entered into by and between City of Crescent City, a municipal corporation (hereinafter referred to as "City"), and the County of Del Norte, a government agency (hereinafter referred to as "County"), with reference to the following facts:

RECITALS

A. Each of the parties to this agreement is a public agency as that term is defined in section 6500 of the Government Code of the State of California.

B. Pursuant to Title 1, Division 7, Chapter 5, of the Government Code of the State of California, commonly known as the Joint Exercise of Powers Act, two or more public agencies may, by agreement, jointly exercise any power common to the contracting parties.

C. The City and the County in 1992 entered into a joint powers agreement creating the Del Norte Solid Waste Management Authority ("DNSWMA") to aid in the accomplishment of common goals.

D. The Del Norte Solid Waste Management Authority maintains its offices and mailing address at 391 Front Street, Crescent City, California 95531.

E. The parties to the original agreement have previously modified the joint powers agreement by way of the "First Amendment to the Joint Powers Agreement" executed on various dates in July and August 1993.

F. It has always been the intent of the City and County in forming DNSWMA that the Authority would have any and all powers necessary or convenient to deal with solid waste, including recycling and meeting diversion goals. However, subsequent to the execution of the Joint Powers Agreement, new state legislation went into effect specifying mandatory provisions that must be included in any joint power agreement forming a "Regional Agency," as that term is defined in California Public Resource Code section 40181.

G. The City Council of Crescent City and the Board of Supervisors of the County of Del Norte have each approved and adopted the state-mandated source reduction and recycling element (SRRE) denominated "The County of Del Norte and City of Crescent City Source Reduction and Recycling Element" and dated October 1992. Among other things, that SRRE sets forth respective diversion goals of the City and County and responsibilities related thereto.

H. The parties now wish to amend the Joint Powers Agreement again to state the terms required by Public Resource Code section 40975 so that the Del Norte Solid Waste Management Authority may be recognized as a Regional Agency charged with meeting recycling and diversion goals.

AMENDMENT

NOW, THEREFORE, intending to be legally bound, the parties agree that the Joint Powers Agreement (JPA) is hereby amended as follows:

1. Article 16 is hereby added to the JPA to read as follows:

"16. REGIONAL AGENCY FOR DIVERSION GOALS:

- 16.1 DNSWMA shall be a Regional Agency charged with implementing Part 2 (commencing with section 40900) of Division 30 in the Public Resources Code having to do with integrated waste management diversion goals. The formation of a Regional Agency is for purposes of joint achievement of the diversion goals of the City of Crescent City and County of Del Norte.
- 16.2 DNSWMA shall be responsible for the payment of any civil penalties imposed against DNSWMA or any Member pursuant to Public Resource Code sections 41813 and 41850.
- 16.3 In the event DNSWMA is dissolved and any civil penalties imposed pursuant to Public Resource Code sections 41813 and 41850 are then left unpaid, payment shall be as follows:
- 16.3(a) Any penalties assessed against DNSWMA resulting from a Member's failure to perform acts required under this agreement or the law shall be paid by that Member.
- 16.3(b) Any penalties assessed against DNSWMA resulting from DNSWMA's failure to perform shall be paid pro rata by City and County. The City's share of the total liability for such fines shall be equal to the percentage of the County's total population living within the City Limits at the time the fines are imposed, and the County shall be responsible for the remainder of any such civil fines.
- 16.4 In the event that DNSWMA is abolished or dissolved, each Member shall be responsible for complying with the requirements of Part 2 (commencing with

section 40900) of Division 30 of the Public Resources Code and all regulations adopted under that legislation within its respective jurisdictional boundaries in accordance with the programs set forth in the Authority's plans submitted and approved by the CIWMB. Those plans include "The County of Del Norte and City of Crescent City Source Reduction and Recycling Element," dated October 1992 and as updated from time to time, which SRRE is hereby incorporated by reference.

- 16.5 DNSWMA shall be responsible for compliance with Article 1 (commencing with section 41780) of Chapter 6 of Part of Division of the Public Resource Code. City and County shall each cooperate with and exercise good faith to do all things reasonably necessary to allow DNSWMA to ensure compliance by the Authority, City, and County.
- 16.6 DNSWMA shall implement and operate the source reduction, recycling, and composting programs set forth in "The County of Del Norte and City of Crescent City Source Reduction and Recycling Element," dated October 1992, and as may be updated from time to time, which SRRE is incorporated herein by reference.
- 16.7 Nothing in this Article shall be construed to expand or limit the Members' existing duties, responsibilities, obligations, or rights relating to the County-owned sanitary landfill located outside the jurisdictional boundaries of the City."

2. The following section 8.4 is hereby added to the JPA:

- 8.4 "Upon withdrawal or dissolution of DNSWMA, those withdrawing Members shall have the option to succeed as franchiser to any existing DNSWMA franchise for that portion of the franchise operative within their respective jurisdictional boundaries for the remaining term of the franchise."

3. The following section 8.5 is hereby added to the JPA:

8.5 Whenever possible, DNSWMA shall include in all contracts, franchisee, and grants, the performance of which are not reasonably expected to be completed within one year of execution, a provision allowing the assignment, upon dissolution, of DNSWMA's interest to the City, County or both as appropriate."

4. The following section 8.6 is hereby added to the JPA:

8.6 During the 1997-98 fiscal year, DNSWMA shall conduct a Waste Generation, Characterization and Market data collection study in compliance with guidelines approved by the California Integrated Waste Management Board. The study shall also be fashioned so that the data is segregated between the incorporated and unincorporated areas of Del Norte County. DNSWMA shall ensure that its Franchisees, and other data collectors, shall be aware of the jurisdictional boundaries of the Charter Members and that adequate proof of residence is required from the customers of the Franchisee/other data collectors. Upon the completion of this study either Charter Member may elect to have its staff meet with the staff of the other Charter Member to determine if this JPA should be amended to require DNSWMA to conduct further studies to ensure that, in the event of dissolution or abolishment, the Charter Members shall individually have data readily available for the Charter Members' separate reports and plans for the consideration of other government agencies. In the event either Charter Member gives Notice of Withdrawal of its participation in DNSWMA, each Charter Member may appoint agents to work with the staff of DNSWMA to collect data for operations and reporting following dissolution. DNSWMA shall fully cooperate with the Charter Members' agents. Following dissolution, the Charter Members shall cooperate with the other to allow access to DNSWMA records.

IN WITNESS THEREOF, the Parties hereto have executed this Second Amendment to the Joint Powers Agreement effective the latest date shown below.

CITY OF CRESCENT CITY,
a municipal corporation

DATED: 7/16-97

By: 

JOHN M. BURLAKE,
Mayor

Attest:


KATHLEEN SMITH,
City Clerk

DATED: 7/8/97

COUNTY OF DEL NORTE

By: 

BARBARA CLAUSEN, Chairman
Board of Supervisors

Attest:


KAREN WALSH, Clerk
Board of Supervisors